



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 20, 1995

Mr. Richard D. Monroe
Deputy General Counsel
Texas Department of Transportation
Dewitt C. Greer State Highway Department
125 East Eleventh Street
Austin, Texas 78701-2483

OR95-077

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29955.

The Texas Department of Transportation (the "department") has received two requests for information relating to a certain civil rights complaint. Specifically, the requestors seek "all documentation relating to Complaint No. 94-HQ-CO35." You advise us that the department has made much of the requested information available to the requestors.¹ You seek, however, to withhold some of the requested information, which you have submitted to us for review, under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that section 552.101 in conjunction with the attorney-client privilege excepts some of the requested information from required public disclosure. Although this office has frequently cited section 552.101 to except from disclosure information within the attorney-client privilege, the privilege is more specifically covered under section 552.107 of the Government Code. Open Records Decision No. 574 (1990). Section 552.107 excepts information if:

(1) it is information that . . . an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

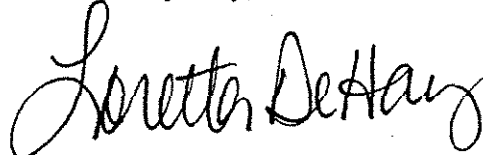
¹ We assume that you have made available to the requestor all the requested information except the information you have submitted for review.

The protection of section 552.107(1) is limited to privileged material under Rule 1.05 of the Texas State Bar Disciplinary Rules of Professional Conduct. *Id.* at 5. The state bar rules define "privileged information," in part, as information protected by the attorney-client privilege of Rule 503 of the Texas Rules of Evidence. Thus, section 552.107 excepts only those communications that reveal client confidences or the attorney's legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1; 574 at 3; 462 (1987) at 9-11.

We have examined the information that you seek to withhold under section 552.107. This information clearly contains communications that reveal client confidences or an attorney's legal opinion or advice. We conclude, therefore, that section 552.107 of the Government Code excepts most of the submitted information from required public disclosure. We have marked the information that the department may withhold under section 552.107.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 29955

Enclosures: Marked documents

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